



Economic Impact Analysis Virginia Department of Planning and Budget

22 VAC 40-72 – Standards for Licensed Assisted Living Facilities
Department of Social Services
October 1, 2008

Summary of the Proposed Amendments to Regulation

The State Board of Social Services (Board) proposes to amend its Standards for Licensed Assisted Living Facilities to incorporate recent changes to Virginia statute and Department of Health Professions (DHP) regulations that affect assisted living facilities. The Board also proposes several amendments to this regulation to conform with recommendations from the Assisted Living Facility Advisory Committee (ALFAC). Among the changes that are ALFAC initiated, the Board proposes to:

- Require facility staff to document when residents delegate management of personal funds to a facility;
- Modify requirements that govern how much time an administrator must spend at any facilities which he administers;
- Change the timing for staff to submit tuberculosis test results from the time of hire to on or within seven days prior to the first day of work and
- Add qualified mental health professionals to the list of individuals who may be involved in the review and update of individualized service plans.

Result of Analysis

The benefits likely exceed the costs for all proposed changes.

Estimated Economic Impact

Persuant to statutory mandate, The Board of Long-Term Care Administrators and the Board of Nursing within DHP have respectively promulgated regulations for licensure of assisted

living facility administrators and for registration of medication aides. The State Board of Social Services (Board) proposes to amend sections of their regulation for assisted living facilities so that it conforms with these DHP regulations. For instance, the Board proposes to amend the medication aide requirements in this regulation to explicitly note that medication aides must be registered with the Board of Nursing and that the Board of Nursing requires continuing education for medication aides that must be completed in addition to the continuing education required by this regulation.

The Board also proposes amendments to this regulation that will bring it into conformity with recent changes to the Code of Virginia. For instance, the Board proposes to eliminate provisions in this regulation for dedicated hospice facilities as these are no longer licensed as assisted living facilities. The changes that the Board proposes to conform this regulation to the Code of Virginia and to statute-mandated DHP regulations will likely not cause any new costs for regulated entities. These changes will, however, provide the added benefit of clarity for individuals who would likely, and rightly, be confused by having conflicting standards coming from different sources.

Currently, this regulation has provisions for facilities to manage residents' private funds if residents choose to delegate this authority. Facility staff is required to keep such funds separate from any facility money and must keep an accounting of these funds which must be available to affected residents or their legal representatives. There is, however, no current explicit requirement that facilities have documented proof that residents have delegated authority over their funds. The Board proposes to add this requirement. This change is likely to slightly increase bookkeeping costs for facilities but will also benefit both facility staff and residents and their families. Facility staff will be less open to charges of improper keeping of resident funds and residents will be better protected from fund misappropriation.

Current regulation has fairly strict requirements as to how many hours administrators who administer multiple smaller facilities must spend at each of these facilities; current regulation also has different limits on the number of smaller facilities that an administrator may be in charge of depending on how many residents these facilities are licensed for. Currently, administrators must spend at least 10 hours a week in any facilities that are licensed for 10 or fewer residents and may administer up to four of these facilities. Administrators must spend at

least 20 hours a week in any facilities that are licensed for 11-19 residents and may only administer two such facilities. Administrators must work a total of at least 40 hours in all their facilities combined. This proposed regulation will require that administrators spend at least 10 hours working in each facility that they administer but must still spend at least 40 hours total working in all facilities combined. Administrators will be allowed to work in up to four facilities so long as these facilities have capacity of 40 or fewer residents total. These regulatory changes will likely not adversely affect patient care but will allow administrators greater flexibility in doing their jobs.

Current regulation requires facility staff to submit the results of a tuberculosis risk assessment upon hire even if they do not start working for some time after that. This proposed regulation will require staff to submit the results of this assessment sometime in a seven day period before they actually start to work (or on their start date). This provision will allow facilities to better protect residents from possible exposure to tuberculosis.

Businesses and Entities Affected

The Department of Social Services (DSS) reports that there are approximately 600 licensed assisted living facilities in the Commonwealth. All of these facilities, and all administrators and medication aides who work in these facilities, will be affected by this proposed regulation.

Localities Particularly Affected

No locality will be particularly affected by this proposed regulatory action.

Projected Impact on Employment

This regulatory action will likely have no impact on employment in the Commonwealth.

Effects on the Use and Value of Private Property

This regulatory action will likely have no effect on the use or value of private property in the Commonwealth.

Small Businesses: Costs and Other Effects

DSS reports that most, if not all, of the approximately 600 assisted living facilities in the Commonwealth are small businesses. These businesses will likely incur slightly higher

bookkeeping costs because of a provision in this proposed regulation that require documentation of residents' consent for facilities to manage their funds.

Small Businesses: Alternative Method that Minimizes Adverse Impact

There are likely no alternate methods that The Board could have employed in writing the requirements of this proposed regulation that would have both accomplished the Board's goals and further minimized any adverse impact on small businesses.

Real Estate Development Costs

This regulatory action will likely have no effect on real estate development costs in the Commonwealth.

Legal Mandate

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.H of the Administrative Process Act and Executive Order Number 36 (06). Section 2.2-4007.H requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. Further, if the proposed regulation has adverse effect on small businesses, Section 2.2-4007.H requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.